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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,048

03/10/2004

Hideki Kamada

249171US0

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7590

08/26/2008

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EXAMINER

STEELE, JENNIFER A

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

08/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/796,048</p>	<p>Applicant(s) KAMADA ET AL.</p>	
	<p>Examiner JENNIFER STEELE</p>	<p>Art Unit 1794</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112 Rejection to claims 23 and 24.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 9-12, 17-21 and 23-26.
Claim(s) withdrawn from consideration: 5-8 and 13-16.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 8/14/2008
13. ☐ Other: _____.

/J. S./
Examiner, Art Unit 1794

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments were sufficient to overcome the 35 USC 112 rejection to claims 23 and 24 as noted in the Office Interview Summary of 7/28/2008. Applicant's arguments and amendments are not sufficient to overcome the 35 USC 102(b) rejection of claims 1-3, 10-11, 18-19 and 21 with respect to Toray and the 35 USC 102(b)/103(a) rejection of claims 9 and 17 with respect to Toray. The 35 USC 103(a) rejections with respect Toray in view of Ohmory, Toray in view of Howard and Toray in view of Ueda are maintained and the rejection of Toray in view of Ueda would be applied to new claims 25 and 26 as well as amended claims. Applicant's arguments that the Toray does not anticipate the polyvinyl alcohol fiber of claims 1 and 21 are not persuasive. The claims recite a polyvinyl alcohol fiber and Toray teaches a polyvinyl alcohol based fiber of 8-45% weight percent polyvinyl alcohol. Claims 1 and 21 do not exclude an additional polymer or composition and the previous Office Action is maintained. As claims 1 and 21 recite the limitation of polyvinyl alcohol fiber in the preamble, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). As Applicant's claims 23 and 24 recite the limitation that the fiber consists of polyvinyl alcohol, these claims exclude other components and are not anticipated by Toray and the previous Office Action 103(a) rejection to Toray in view of Ueda is maintained. Applicant argues that the polyvinyl alcohol fiber of Toray uses a blend of polyacrylonitrile which is detrimental to the hydrolysis resistance of the fibers of Toray and Applicant is teaching a chemical resistance polyvinyl alcohol fiber. The data presented by the Applicant presented as compared to fibers with different cross-sectional profiles to support the structural limitation of the fiber cross-sectional profile and does not present data as to the percentage of polyvinyl alcohol in the fiber compared to a fiber blend.